



State Government Administration Committee

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LRB096 19909 JDS 43919 a

1 AMENDMENT TO SENATE BILL 3162

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3162 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Section 1-113.14 as follows:

6 (40 ILCS 5/1-113.14)

7 Sec. 1-113.14. Investment services for retirement systems,  
8 pension funds, and investment boards, except those funds  
9 established under Articles 3 and 4.

10 (a) For the ~~the~~ purposes of this Section, "investment  
11 services" means services provided by an investment adviser or a  
12 consultant.

13 (b) The selection and appointment of an investment adviser  
14 or consultant for investment services by the board of a  
15 retirement system, pension fund, or investment board subject to  
16 this Code, except those whose investments are restricted by

1 Section 1-113.2, shall be made and awarded in accordance with  
2 this Section. All contracts for investment services shall be  
3 awarded by the board using a competitive process that is  
4 substantially similar to the process required for the  
5 procurement of professional and artistic services under  
6 Article 35 of the Illinois Procurement Code. Each board of  
7 trustees shall adopt a policy in accordance with this  
8 subsection (b) within 60 days after the effective date of this  
9 amendatory Act of the 96th General Assembly. The policy shall  
10 be posted on its web site and filed with the Illinois  
11 Procurement Policy Board. Exceptions to this Section are  
12 allowed for (i) sole source procurements, (ii) emergency  
13 procurements, and (iii) at the discretion of the pension fund,  
14 retirement system, or board of investment, contracts that are  
15 nonrenewable and one year or less in duration, so long as the  
16 contract has a value of less than \$20,000. All exceptions  
17 granted under this Section must be published on the system's,  
18 fund's, or board's web site, shall name the person authorizing  
19 the procurement, and shall include a brief explanation of the  
20 reason for the exception.

21 A person, other than a trustee or an employee of a  
22 retirement system, pension fund, or investment board, may not  
23 act as a consultant or investment adviser under this Section  
24 unless that person is registered as an investment adviser under  
25 the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1,  
26 et seq.) or a bank, as defined in the federal Investment

1 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

2 (c) Investment services provided by an investment adviser  
3 or a consultant appointed under this Section shall be rendered  
4 pursuant to a written contract between the investment adviser  
5 or consultant and the board.

6 The contract shall include all of the following:

7 (1) Acknowledgement in writing by the investment  
8 adviser or consultant that he or she is a fiduciary with  
9 respect to the pension fund or retirement system.

10 (2) The description of the board's investment policy  
11 and notice that the policy is subject to change.

12 (3) (i) Full disclosure of direct and indirect fees,  
13 commissions, penalties, and other compensation, including  
14 reimbursement for expenses, that may be paid by or on  
15 behalf of the consultant in connection with the provision  
16 of services to the pension fund or retirement system and  
17 (ii) a requirement that the consultant update the  
18 disclosure promptly after a modification of those payments  
19 or an additional payment.

20 (4) A requirement that the investment adviser or  
21 consultant, in conjunction with the board's staff, submit  
22 periodic written reports, on at least a quarterly basis,  
23 for the board's review at its regularly scheduled meetings.  
24 All returns on investment shall be reported as net returns  
25 after payment of all fees, commissions, and any other  
26 compensation.

1           (5) Disclosure of the names and addresses of (i) the  
2 consultant or investment adviser; (ii) any entity that is a  
3 parent of, or owns a controlling interest in, the  
4 consultant or investment adviser; (iii) any entity that is  
5 a subsidiary of, or in which a controlling interest is  
6 owned by, the consultant or investment adviser; (iv) any  
7 persons who have an ownership or distributive income share  
8 in the consultant or investment adviser that is in excess  
9 of 7.5%; or (v) serves as an executive officer of the  
10 consultant or investment adviser.

11           (6) A disclosure of the names and addresses of all  
12 subcontractors, if applicable, and the expected amount of  
13 money each will receive under the contract, including an  
14 acknowledgment that the contractor must promptly make  
15 notification, in writing, if at any time during the term of  
16 the contract a contractor adds or changes any  
17 subcontractors. For purposes of this subparagraph (6),  
18 "subcontractor" does not include non-investment related  
19 professionals or professionals offering services that are  
20 not directly related to the investment of assets, such as  
21 legal counsel, actuary, proxy-voting services, services  
22 used to track compliance with legal standards, and  
23 investment fund of funds where the board has no direct  
24 contractual relationship with the investment advisers or  
25 partnerships.

26           (7) A description of service to be performed.

1 (8) A description of the need for the service.

2 (9) A description of the plan for post-performance  
3 review.

4 (10) A description of the qualifications necessary.

5 (11) The duration of the contract.

6 (12) The method for charging and measuring cost.

7 (d) Notwithstanding any other provision of law, a  
8 retirement system, pension fund, or investment board subject to  
9 this Code, except those whose investments are restricted by  
10 Section 1-113.2 of this Code, shall not enter into a contract  
11 with a consultant that exceeds 5 years in duration. No contract  
12 to provide consulting services may be renewed or extended. At  
13 the end of the term of a contract, however, the consultant is  
14 eligible to compete for a new contract as provided in this  
15 Section. No retirement system, pension fund, or investment  
16 board shall attempt to avoid or contravene the restrictions of  
17 this subsection (d) by any means.

18 (e) Within 60 days after the effective date of this  
19 amendatory Act of the 96th General Assembly, each investment  
20 adviser or consultant currently providing services or subject  
21 to an existing contract for the provision of services must  
22 disclose to the board of trustees all direct and indirect fees,  
23 commissions, penalties, and other compensation paid by or on  
24 behalf of the investment adviser or consultant in connection  
25 with the provision of those services and shall update that  
26 disclosure promptly after a modification of those payments or

1 an additional payment. The person shall update the disclosure  
2 promptly after a modification of those payments or an  
3 additional payment. The disclosures required by this  
4 subsection (e) shall be in writing and shall include the date  
5 and amount of each payment and the name and address of each  
6 recipient of a payment.

7 (f) The retirement system, pension fund, or board of  
8 investment shall develop uniform documents that shall be used  
9 for the solicitation, review, and acceptance of all investment  
10 services. The form shall include the terms contained in  
11 subsection (c) of this Section. All such uniform documents  
12 shall be posted on the retirement system's, pension fund's, or  
13 investment board's web site.

14 (g) A description of every contract for investment services  
15 shall be posted in a conspicuous manner on the web site of the  
16 retirement system, pension fund, or investment board. The  
17 description must include the name of the person or entity  
18 awarded a contract, the total amount applicable to the  
19 contract, the total fees paid or to be paid, and a disclosure  
20 approved by the board describing the factors that contributed  
21 to the selection of an investment adviser or consultant.

22 (Source: P.A. 96-6, eff. 4-3-09.)".